IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
THURSDAY, THE SIXTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE B.PRAKASH RAO
WRIT PETITION NO : 22978 of 1994

Between:

1. Kotla Sri Ramulu, S/o.Late Peda Venkanna, Hindu, aged 75 years, Occ: Agricultural coolie, R/o.Vara Ramachandrapuram (V) Vararamachandrapuram Mandal, Khammam Dist.
2. Kotla Satyanarayana, S/o.Sriramulu, Hindu, aged 40 years, R/o.Vara Ramachandrapuram (V), Vararamachandrapuram Mandal Khammam Dist.
3. Kotla Venkateswarlu, S/o.Sriramulu, aged 35 years, Hindu, R/o.Vara Ramachandrapuram (V) Vararamachandrapuram Mandal Khammam Dist.
4. Kotla Rama Rao, S/o.Sriramulu, Hindu, aged 30 years, Agricultural coolie, R/o.Vara Ramachandrapuram (V), Vararamachandrapuram Mandal, Khammam Dist.
5. Kotla Laxmana Rao, S/o.Sriramulu, Hindu, aged 25 years, Occ: Agricultural coolie, R/o.Vara Ramachandrapuram (V), Vararamachandrapuram Mandal, Khammam Dist.
6. Kotla Nageswara Rao, S/o.Sriramulu, Hindu, aged 22 years, Occ: Agricultural coolie, R/o.Vara Ramachandrapuram (V) . Vararamachandrapuram Mandal, Khammam, Dist.

..... PETITIONERS

AND

1. The Joint Collector, Khammam District, Khammam.
2. The Revenue Divisional Officer, Badradhalam, Khammam Dist.
3. The Mandal Revenue Officer, Vara Ramachandrapuram Mandal, Khammam Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of Writ of Mandamus or any other appropriate writ, declaring the order of the 1st respondent in RC.No.B3/8823/93 dated 24-8-1994 as illegal, arbitrary and contrary to law and consequently direct the respondents to assign the land in favour of the petitioners in S.No.96/2 admeasuring about Ac.4-47 cents situated in Rekapalli Village, Vara Ramachandrapuram Mandal, Khammam District by

setting aside the order of the 1st respondent dated: 24-8-1994.

Counsel for the Petitioners: MR.K.VENKATESH

Counsel for the Respondents: GP FOR LAND ACQUISITION

The Court made the following :
O R D E R:

Heard the learned counsel for petitioners and also the learned Government Pleader.

2. The petitioners herein seeks to assail the proceedings initiated against them under the provisions of the A.P. Land Encroachment Act, 1905, wherein the petitioners sought to resist the same on the ground that having regard to their possession of the lands in question for a long time, they are entitled for the benefit in pursuance of G.O.Ms.No.41 dated 12.01.1971 and this aspect has not been considered by either of the authorities. It is seen that the petitioners though claimed possession, but the same is not being accepted for such a long period, as they are entitled for the benefit of the aforesaid G.O. Further, in a proceedings under the A.P. Land Encroachment Act, 1905, the question as to entitlement for such an assignment or not, cannot form part of the enquiry, nor would it be a valid defence.

3. In this case, both the authorities have rejected the objections raised by the petitioners and having regard to the concurrent findings arrived at, this Court cannot interfere with the same in exercise of the powers conferred under Article 226 of the Constitution of India. Even otherwise in the counter affidavit it is submitted that the petitioners are not entitled to any such assignment under the aforesaid G.O.

4. In the circumstances, I do not find any merits in the writ petition and the same is, accordingly, dismissed. No costs.

B.PRAKASH RAO,J.

Date: 16th September 2004
BSB

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Joint Collector, Khammam District, Khammam.

2. The Revenue Divisional Officer,
Badradhalam, Khammam Dist.

3. The Mandal Revenue Officer, Vara Ramachandrapuram Mandal,
Khammam Dist.

4. Two CCs to the Government Pleader for Land Acquisition, High Court
Buildings, Hyderabad (OUT).

5. Two CD copies.